

ORDINANCE NO. 2009-03

AN ORDINANCE, of the City of Wenatchee amending Chapter 1.36 of the Wenatchee City Code establishing policies and procedures for the acceptance of donations to the City for public purposes, and repealing prior Ordinance No. 97-28.

WHEREAS, RCW 35A.11.040 sets forth the basic authority for non-charter code cities to accept donated money or property and reads, in pertinent part, as follows:

“The legislative body of a code city shall have power to accept any gift or grant for any public purpose and may carry out any conditions of such gift or grant when not in conflict with state or federal law.”

WHEREAS, the City Council desires to update its policies and procedures for accepting donations made to the City for public purposes.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE DO HEREBY ORDAIN as follows:

SECTION I

Chapter 1.36 of the Wenatchee City Code is hereby amended to read in its entirety as follows:

**Chapter 1.36
ACCEPTANCE OF DONATIONS
TO THE CITY**

Sections:

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| 1.36.010 | Purpose. |
| 1.36.020 | Definitions. |
| 1.36.030 | Funds – Accounting. |
| 1.36.040 | Acceptance of parks and recreation donations in general – Donor’s desired use or conditions. |
| 1.36.050 | Acceptance of parks and recreation monetary donations. |

- 1.36.060 Acceptance of parks and recreation nonmonetary donations.
- 1.36.070 Donations of art work.
- 1.36.080 Donation of historical artifacts.
- 1.36.090 Donations for facility and park naming.

1.36.010 Purpose.

The purpose of this chapter is to authorize the acceptance of donations for any public purpose, pursuant to RCW 35A.11.040, and to specify policies and procedures for doing so.

1.36.020 Definitions.

“Department head” includes the head of any city department, or his or her designee.

“Donation” is defined as any monetary or nonmonetary gift, grant, devise or bequest to the City of Wenatchee. A monetary donation includes cash, check, credit card payment, PayPal payment, money order or other negotiable instrument. A nonmonetary donation includes real or personal property. In the event of a stock donation, since a government entity is not legally able to own stock, such a donation would be liquidated and turned into cash or another liquid asset, and treated as a monetary donation.

“Executive Services Director” means the Executive Services Director of the City of Wenatchee, or his or her designee.

“Memorial” is an item, object or monument established to preserve the memory of a deceased person(s) or an event that occurred in the past.

“Tribute” means an item, object or gift designed to acknowledge the contributions of living people to society. Projects recognizing people with illnesses such as cancer are considered tributes.

1.36.030 Funds – Accounting.

The City of Wenatchee Finance Department is responsible for providing for the deposit and financial administration of any donation to the City. If necessary, the Finance Department shall track the proposed use of any such donation and shall maintain separate records of accounts showing receipts and disbursements. The Finance Director may establish further rules and regulations for the accounting and administration of donations, consistent with this chapter, as deemed necessary by the director.

1.36.040 Acceptance of donations in general – Donor’s desired use or conditions.

The City has the discretion to accept or decline any proposed donation, whether conditioned or not, subject to the provisions of this chapter. In the event a department head has reason to believe a donation could cause or result in an appearance of impropriety, the department head shall consult with the City Attorney prior to accepting the donation. Conditioned donations shall be assigned to a project or existing fund consistent with the donor’s desired use, as long as

such condition(s) do not conflict with city, state or federal law, in which case the city shall ask that the condition(s) be removed or decline the donation.

1.36.050 Acceptance of monetary donations.

- A. Unrestricted Parks and Recreation Donations Less than or equal to \$5,000. The department head is hereby authorized to accept any monetary donation of less than or equal to \$5,000 on behalf of the city, and shall deposit such monies with the finance department.
- B. Restricted Parks and Recreation Donations of less than or equal to \$5,000. Restricted donations may be accepted by the department head using the following process. This process may be used for typical park amenities (bench, tree, and picnic table) and is generally a smaller, single purpose feature and valued at less than or equal to \$5,000.
 - B.1 Review Process
As donations and memorials vary greatly in their impact on parks or programs, the review process should be tailored according to the proposal's complexity.
 - B.2 Criteria for the donation of typical park amenities, as identified in the Donation Gift Catalog:
 - B.2.1 The donor should meet with City staff at the earliest possible time to discuss the review process for the specific proposal.
 - B.2.2 City staff considers land use requirements, legal requirements, park design issues, potential public concern, maintenance issues, and recreational issues.
 - B.2.3 The proposal is reviewed against approval criteria included in this policy. The true cost of the proposal is estimated, if appropriate, at this stage of the proposal's development.
 - B.2.4 The Department Head accepts or denies the donation and prepares a letter to the donor informing them of the decision to approve or deny the donation giving instruction to the donor about the procedure to complete the project.
 - B.2.5 The project item is purchased by City Staff and installation is coordinated with the Parks Maintenance Supervisor. A 50% deposit of the total amount due must be paid at the time of the order, with the remainder due prior to installation.

- C. Unrestricted Parks and Recreation Donations greater than \$5,000. Donations of any amount greater than \$5,000 must be reviewed by the department head and approved by the City Council, so that the city can evaluate any policy implications associated with the donation.
- D. Restricted Parks and Recreation Donations greater than \$5,000. Restricted use donations valued at over \$5,000 for amenities such as fountains, athletic fields, gardens and plazas.
 - D.1 Review Process. As donations and memorials vary greatly in their impact on parks, the review process should be tailored according to the proposal's complexity. The level of review may be simplified in some cases.
 - D.1.1 Following the initial proposal review, preliminary research regarding land use and legal concerns, potential community concerns and costs will be conducted by both the donor and Parks staff. Staff will be consulted to determine if the donation would be considered public art, in which case the Arts Commission would first review the proposal for appropriateness to the public art collection.
 - D.1.2. The proposal is submitted with information regarding intent, cost estimates, size, location, timeline and a site drawing.
 - D.1.3. The Parks and Recreation Advisory Board reviews the request in two separate meetings. The first offers the applicant an opportunity to present their ideas and hear feedback. The Board will also give feedback regarding public input.
 - D.1.4. At the second meeting, the Board will review the formal request from the donor in terms of the approval criteria included in this policy.
 - D.1.5. In consultation with City staff, the Parks and Recreation Advisory Board recommends the approval or denial of any "substantial gift, memorial or tribute", or proposal. The recommendation is sent to City Council for final approval.

Approving or denying any gift, memorial or tribute is wholly within the discretion of the Wenatchee Parks and Recreation Advisory Board and City Council. No individual or organization has the right to make any improvement or place any items in public

parks, regardless of whether they think their proposal meets the following approval criteria.

Approval criteria focus on three general categories:

- D.2 Significance of Event/Person Being Memorialized or Significance of a Gift
 - D.2.1 A person memorialized must have been deceased for a minimum of one year, or an event must have occurred a minimum of one year ago.
 - D.2.2 The memorial has timeless qualities and makes a statement of significance to future generations.
 - D.2.3 The memorial represents a person or event deemed significant to Wenatchee's history.
 - D.2.4 The gift or memorial must be consistent with the mission of the Wenatchee Parks and Recreation Department.
 - D.2.5 The memorial amenity must meet the policy guidelines and goals specified within the City of Wenatchee Comprehensive Plan and be contained within the Capital Investment Plan.
 - D.2.6 Proposals should focus on characteristics that define a particular sense of place and support activities and uses that strengthen those qualities.
- D.3 Location. Donors may be asked to broaden their search for an appropriate location and consider other public or privately owned spaces, which may provide a more suitable location.
 - D.3.1 The proposed site offers opportunities for enhancement without diminishing a park's ability to offer undefined open space for quiet contemplation and/or spontaneous activities.
 - D.3.2 The increased use of a park due to a gift or memorial is appropriate for the park's context and surrounding uses.
 - D.3.3 The quality, scale, and character of the gift or memorial are at a level commensurate with the particular park setting.
 - D.3.4 There should be some specific geographic justification for the memorial being located in that spot.

D.3.5 Alternative sites in rights-of-way, private property or other public property were considered and determined inappropriate.

D.4 Project Design

D.4.1 The proposal must be in concurrence with the Capital Investment and Park Master Plan. If a Park Master Plan does not exist, a Needs Assessment of the park's service area must be completed in order to determine the need for future park elements and circulation patterns.

D.4.2 The quality, scale, and character of the memorial are at a level commensurate with the particular park setting.

D.4.3 The design of the memorial or tribute should not be solely representative of the person(s) or event being memorialized but should be of a broader community appeal.

D.4.4 The memorial or tribute is encouraged to be designed as a park amenity or as a functional component of the park (i.e. an interactive fountain).

D.4.5 Contributes to the aesthetic quality of the park setting.

D.4.6 Reuse, rehabilitate or restore an existing park feature where appropriate.

D.4.7 Addresses existing and/or future maintenance concerns by meeting Parks Maintenance Division's design standards and specifications.

D.4.8 The element is consistent with the City's Parks and Recreation Design Standards.

D.4.9 Meets the requirements of ADA by providing accessibility to all park users.

D.4.10 Enhances a park by adding elements that add to identity and ambiance.

D.4.11 The proposal does not create any public safety or security issues.

D.5 Requirements

- D.5.1 The donor will involve the Wenatchee Parks and Recreation Department at the earliest possible stage of proposal development, prior to a particular park site being contemplated.
 - D.5.2 At any point in the review, the Parks and Recreation Director can halt the process for further review if it is determined that the proposal is incomplete or clearly does not meet the criteria identified in the Substantial Gift, Memorial or Tribute policy. The applicant will be asked to resubmit their proposal addressing the identified discrepancy
 - D.5.3 If a design professional is to be hired by the donor, the Parks and Recreation Department and the Public Works Department must be involved in creating the scope of work and approving each design phase of the project.
 - D.5.4 The donor is responsible for complying with all federal, state and local laws, which might include competitive bidding and state prevailing wage laws.
 - D.5.5 Applicant will bear the cost of all-necessary permits, approvals, project management, design, installation, manufacture and maintenance of the gift or memorial, even if the City Parks and Recreation Department provides these services. Budget details of these project elements will be spelled out in an agreement with the donor.
 - D.5.6 A revocable permit from the City will be required. Proof of general liability insurance and workers compensation insurance will be required from the contractor and/or organizations doing the installation.
 - D.5.7 No contingencies shall be placed on the acceptance of a gift by the donor. Acknowledgement of the donor in the form of a plaque is allowed. The plaque must meet the requirements contained in this policy. Improvements made in a public space become the property of the City and are subject to the laws, policies, and procedures that govern park property.
- E. Funding the Total Project Cost. The applicant will be asked to cover 100% of the costs. These costs will include the cost of park modifications, incidentals and Parks and Recreation Department staff time that will be

needed to ensure the project meets park specifications and is properly installed. Park modifications and other incidental costs required because of the improvement are to be estimated during the review process.

- F. Defining Annual Maintenance Costs. The level of maintenance varies depending upon the nature of the project. In general, donors will be asked to contribute enough money to cover long term maintenance costs. These costs are contained within the Donation Gift Catalog. Any annual operation and maintenance costs not covered by the donor become the responsibility of the associated budgetary fund. Improvements requiring ongoing City support must be approved by the City Council before the donation is accepted.

The City of Wenatchee reserves the right to remove any donated park amenity for safety reasons, deterioration caused by age, neglect or vandalism, and/or the City's inability to finance ongoing maintenance and/or repairs.

- F.1 Exceptions. In some cases it may be reasonable to ask the private party to cover a greater or lesser percentage of the maintenance. The department head, with the Park Maintenance Supervisor may make exceptions based upon the following criteria:

- The community's need for the improvement.
- How much the amenity strengthens the park system as a whole.
- Whether it is located in a park that is under-developed and lacking sufficient amenities.
- The financial capacity of the donor.
- Whether the annual maintenance cost is so low as to be negligible.

- G. Donation Acknowledgements/Memorial Plaques. Donation acknowledgments for program and activities will be in the form of verbal acknowledgement at the programs and printed information included in promotional materials distributed before, during and after the program or activity.

Semi permanent memorial plaques are to be directly affixed to the donated item and/or, are to be made of bronze and purchased by the City. Donation acknowledgements/memorial plaques will be a maximum 5" x 7" or 2" x 18" in size, utilize "Tahoma" lettering and numbers or approved equal, have a leatherette background, be of light brown type "A" color (subject to change, due to availability) and manufactured by a City approved vendor

to ensure highest quality, life and durability. In cases where bronze plaques are not feasible, City staff may suggest alternative types. These types will be in character with the intent of this section and acknowledgments shall be tasteful, and subtle. To prevent potentially offensive text from being displayed on city property, the City must approve all text for donation acknowledgements/memorial plaques.

- G.1 In park bench applications the donation acknowledgment will be affixed into the seat back of the bench.
 - G.2 In picnic table applications the donation acknowledgment will be inserted into the concrete pad installed under the picnic table. Multiple donors (up to 6 per table) will be allowed.
 - G.3 In tree installation applications the donation acknowledgment will be installed in a flush mounted concrete pad.
 - G.4 In other installations, the location will be determined at the time of final design.
- H. Notification. This criteria is a requirement for both existing (at the expiration of its life-cycle period) and new donations. It shall be the responsibility of the donor to provide the City with a current address for purposes of notification regarding their donation. For the purposes of notification the City will send a letter to the donor, notifying the donor of changes related to the status of their donation (i.e. a need to remove, relocate, or comply with conditions set forth in this policy).

1.36.060 Acceptance of nonmonetary donations.

- A. Donations of Personal Property Valued at \$5.00 to \$5,000. All donations of personal property with a current value greater than or equal to \$5.00 and less than or equal to \$5,000 may be accepted by any department director or the Executive Services Director, except as follows. In the event of a donation of personal property which could require future maintenance or repair (e.g., office equipment), the department director should first assess all related future costs. In addition, if a conditioned donation could have long-term impacts, such as significant operations and maintenance or capital costs, the department head shall consult with the City Council prior to accepting the donation.
- B. Donation of Personal Property Valued at Over \$5,000. All donations of personal property with a current value of \$5,000 or more must first be approved by the City Council after consultation with the appropriate advisory Board (i.e. Parks and Recreation Advisory Board, Arts Commission etc.). If the personal property could require future

maintenance or repair, the department director should first assess all related future costs and submit the assessment of expenses to the City Council. For conditioned donations, the department director should also provide the City Council with an assessment of long-term impacts, such as significant operations and maintenance or capital costs.

- C. Donations of Real Property. All donations of real property, whether conditioned or unconditioned, must first be approved by the City Council by resolution.

1.36.070 Donations of art work.

Notwithstanding any other provision of this chapter, determination whether to accept art work proposed for donation to the city for permanent or long-term (exceeding one year) public display shall be made by the City Council following recommendation by the Arts Commission.

1.36.080 Donation of historical artifacts.

Notwithstanding any other provision of this chapter, determination whether to accept historical artifacts proposed for donation to the city for permanent or long-term (exceeding one year) public display at the Museum shall be made by the City Council following recommendation by the North Central Washington Museum.

1.36.090 Donations for facility and park naming.

Facilities and parks may be named after a major donor (private party or organization) only after careful consideration of all potential long-term impacts. The procedures established in the park and facility naming policy shall govern the process in which a facility or park is proposed to be named.

SECTION II

Prior Ordinance No. 97-28 shall be and hereby is repealed in its entirety.

SECTION III


If any section, subsection, clause, or sentence of this Ordinance shall be held unconstitutional or invalid, such holding shall not affect the validity of the remaining provisions of this Ordinance.

SECTION IV.

This Ordinance shall take effect from and after its passage thirty (30) days from and after publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE, at a regular meeting thereof, this 8 day of January, 2009.

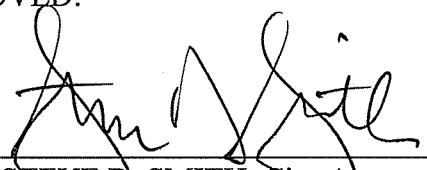
CITY OF WENATCHEE, a Municipal
Corporation

By: 
DENNIS JOHNSON, Mayor

ATTEST:

By: 
VICKI REISTER, City Clerk

APPROVED:

By: 
STEVE D. SMITH, City Attorney